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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON DEPUTY



07-CV-00475-ORD

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DIANNE L. KELLEY and KENNETH
HANSEN,

Plaintiffs,

v.

MICROSOFT CORPORATION, a Washington
Corporation,

Defendant.

NO. C07-0475 MJP

STIPULATION AND ~~[PROPOSED]~~
ORDER DISMISSING CONTRACT
CAUSE OF ACTION

CLASS ACTION

STIPULATION

Pending before this Court is Microsoft's motion to dismiss. In regard to Plaintiffs' common law breach of contract claim, Microsoft represents in its reply brief that the version of the XP End User License Agreement (EULA) attached to the Thomas Declaration (Dkt. 18, Ex. A) is not the version of the XP EULA that would have been provided with Plaintiffs' computers (Dkt. 20 at 6). Based upon that representation, the parties hereby stipulate that Plaintiffs' breach of contract claim may be dismissed, without prejudice. This Stipulation relates only to Plaintiffs' breach of contract claim.

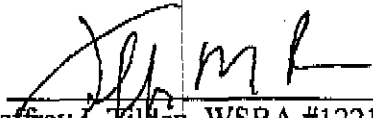
STIPULATION AND [PROPOSED] ORDER DISMISSING
BREACH OF CONTRACT CAUSE OF ACTION - 1
No. C07-0475 MJP

GORDON TILDEN THOMAS & CORDELL LLP
1001 Fourth Avenue, Suite 4000
Seattle, WA 98154
Phone (206) 467-6477
Fax (206) 467-6292

DATED this 3rd day of August, 2007.

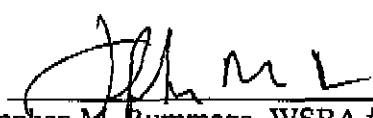
**GORDON TILDEN THOMAS &
CORDELL LLP**

By


Jeffrey I. Tilden, WSBA #12219
Jeffrey M. Thomas, WSBA #21175
Michael Rosenberger, WSBA #17730
Mark A. Wilner, WSBA #31550

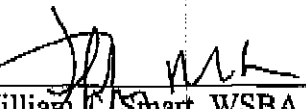
DAVIS WRIGHT TREMAINE LLP

By


Stephen M. Rummage, WSBA #11168
Cassandra L. Kinkead, WSBA #22845
Charles S. Wright, WSBA #31940
(per telephone authority)

KELLER ROHRBACK L.L.P.

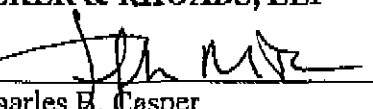
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William C. Smart, WSBA #8192
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Attorneys for Plaintiffs

**MONTGOMERY, MCCrackEN,
WALKER & RHOADS, LLP**


By


Charles E. Casper
(per telephone authority)
Attorneys for Defendant

ORDER

Based upon the above stipulation, Plaintiffs' common law breach of contract claim is dismissed, without prejudice.

DATED this 6th day of August, 2007.


MARSHA J. PECHMAN
UNITED STATES DISTRICT JUDGE

STIPULATION AND [PROPOSED] ORDER DISMISSING
BREACH OF CONTRACT CAUSE OF ACTION - 2
No. C07-0475 MJP

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CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following.

Counsel for Defendant Microsoft Corporation

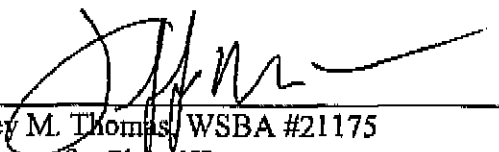
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STIPULATION AND [PROPOSED] ORDER DISMISSING
BREACH OF CONTRACT CAUSE OF ACTION - 3
No. C07-0475 MJP

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